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December 19, 2012

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VIA E-MAIL

Jeff S. Jordan, Esquire
Supervisory Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6672: Bilirakis for Congress, and
The Honorable Gus Bilirakis

Dear Mr. Jordan:

Please find attached the response of our clients, Representative Gus Bilirakis, Bilirakis for Congress and John Koulianos, as Treasurer, to the complaint filed against them in the above-referenced matter.

Please do not hesitate to contact us with any questions.

Respectfully submitted,


William J. McGinley

Attachment

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

The Honorable Gus Bilirakis
And
Bilirakis for Congress, and
John Koulianos, as Treasurer

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MUR 6672

**RESPONSE OF THE HONORABLE GUS BILIRAKIS
AND BILIRAKIS FOR CONGRESS TO THE COMPLAINT**

This responds on behalf of our clients, The Honorable Gus Bilirakis and Bilirakis for Congress, and John Koulianos, as Treasurer (collectively "Campaign"), to the notification from the Federal Election Commission ("Commission") that a complaint was filed against them in the above-referenced matter. The complaint was filed by a political opponent of the Campaign, misstates the law, and is nothing more than a baseless, speculative attack that has no merit. For the reasons set forth below, the Commission should dismiss the complaint, close the file and take no further action.

The Act and Commission regulations prohibit the use of campaign funds to fulfill a commitment, obligation or expense of an individual that would exist irrespective of the candidate's campaign or duties as a federal officeholder. 2 U.S.C. 439a(b); 11 C.F.R. §§ 113.1(g), 113.2(e). This prohibition is commonly referred to as the "personal use" prohibition. Included among the list of prohibited expenses are admission to sporting or entertainment events unless part of a campaign or officeholder activity, and membership dues for a country club or other recreational club unless part of the costs for a fundraising or political event. *See id.* §§ 113.1(g)((1)(3)(F) & (G). However, the Explanation and Justification ("E&J") for the personal use prohibition makes clear that organizations for which campaign funds are used to pay for membership dues need only have an indirect nexus to the campaign:

The rule also allows a candidate or officeholder to use campaign funds to pay membership dues in an organization that may have political interests. This would include community or civic organizations that a candidate or officeholder joins in his

or her district in order to maintain political contacts with constituents or the business community. Even though these organizations are not considered political organizations under 26 U.S.C. § 527, they will be considered to have political aspects for the purposes of this rule.

60 Fed. Reg. 7866 (Feb. 9, 1995). With respect to entertainment, the E&J provides, *inter alia*, that the rule is not intended to "include traditional campaign activity, such as attendance at county picnics, organizational conventions, or other community or civic occasions." *Id.* The E&J also states:

[T]he rules do not require an explicit solicitation of contributions or make distinctions based on who participates in the activity, since this would be a significant intrusion into how candidates and officeholders conduct campaign business.

Id. Thus, Commission regulations specifically permit a candidate or officeholder to use campaign funds to pay membership dues for civic or community organizations if he or she believes there is a political benefit and to use campaign funds to participate in events sponsored by such organizations.

The Complaint in the instant matter alleges that the Campaign made membership and event registration payments to the Royal Order of Jesters in violation of the personal use prohibition. *See* Complaint at 1. As described in one of the Complaint's exhibits, the Royal Order of Jesters is a Masonic fraternity that clearly qualifies as a civic or community organization. This is precisely the situation contemplated by the Commission regulations in order to provide broad latitude to candidates and officeholders to join organizations or attend events "in his or her district in order to maintain political contacts with constituents or the business community." 60 Fed. Reg. 7866. The Complaint does not cite to any allegations involving the Tampa, Florida chapter of the Royal Order of Jesters or that its activities were purely for entertainment purposes. Commissioners Mason, Sandstrom, McDonald, Smith, Thomas, Wold, Statement of Reasons, MUR 5141 ("A complainant's unwarranted legal conclusions from asserted facts, will not be accepted as true."). The exhibits attached to the complaint involve allegations from the Indiana and New York chapters, not the Tampa, Florida chapter. *See* MUR 4850 (Deloitte & Touche, LLP, et al), Statement of Reasons of

Commissioners Darryl R. Wold, David M. Mason, and Scott E. Thomas at 2 ("The burden of proof does not shift to a respondent merely because a complaint is filed."). Accordingly, the Complaint is without merit and must be dismissed.

For all the reasons stated above, there is no factual or legal basis for finding reason to believe a violation occurred in this matter. We respectfully request that the Commission dismiss the complaint, close the file, and take no further action in this matter.

Respectfully submitted,



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